

REMARKS

Claims 1-3 and 5-20 are now pending in the application. By this paper, Claims 1, 9, and 10 have been amended, Claims 11-20 have been added, and Claim 4 has been cancelled without prejudice or disclaimer of the subject matter contained therein. The basis for the foregoing amendments and new claims can be found throughout the specification, claims, and drawings originally filed. No new matter has been added. The preceding amendments and the following remarks are believed to be fully responsive to the outstanding Office Action and are believed to place the application in condition for allowance. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hadley (U.S. Pat. No. 3,910,443).

Claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kutcher (U.S. Pat. No. 3,601,273).

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fabrice (U.S. Pat. No. 2,113,176).

These rejections are respectfully traversed.

At the outset, Applicants respectfully submit that these rejections are moot with respect to Claim 4, as Claim 4 has been cancelled without prejudice or disclaimer of the subject matter contained therein. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Independent Claim 1 recites a capping system including a container having a mouth and a sealing cap that has a bottom for covering the mouth. When the sealing cap is placed on the container, the sealing cap includes a flanged region that laterally surrounds a cam of the container. Applicants respectfully submit that each of Hadley, Kutcher, and Fabrice fail to teach or suggest a container including a cam—much less a cap including a flanged region that laterally surrounds such a cam.

Hadley discloses a closure cap including a metal shell (1) having a plurality of vertical score lines (4) and a peripheral score line (5). See Hadley at Col. 2, Ins. 62-68, and Col. 3, Ins. 1-16, and Figure 1. The shell (1) includes a constant cross-sectional diameter, which is received over a bottle (not labeled) having a constant cross-sectional diameter. See Hadley at Figures 2 and 3. Because the shell (1) includes a constant cross-sectional diameter received over a bottle having a constant cross-sectional diameter in the area of the closure cap, Applicants respectfully submit that Hadley is completely silent with respect to a container having a cam or a sealing cap including a flanged region that laterally surrounds such a cam.

Kutcher discloses a closure cap (9) including a cylindrical skirt (11) and a locking band (17) having four vertically disposed weakening lines (18). See Kutcher at Col. 3, Ins. 21-43 and Figure 1. The cylindrical skirt (11) and locking band (17) include a constant cross-sectional diameter including a series of threads (not labeled) that engage a series of screw threads (23) of a container neck (20). See Kutcher at Col. 3, Ins. 56-62 and Figure 3. While Kutcher discloses a container neck (20) including screw threads (23), Applicants respectfully submit that Kutcher is completely silent with respect to a container including a cam. Applicants submit that Kutcher also fails to

teach or suggest a sealing cap having a flanged region that laterally surrounds a cam of a container, as the cap (9) includes a substantially constant cross-sectional area.

Fabrice discloses a bottle neck (1) including a series of thread formations (2) and a cap (5) that is received over a distal end of the bottle neck (1). See Fabrice at Col. 2, Ins. 42-50 and Figures 2 and 4. The cap (5) includes a base portion (6) that is matingly received over a generally squared base of the bottle neck (1). See Fabrice at Figures 2 and 4. The Examiner asserts that Fabrice discloses a cam, as recited by independent Claim 1, as the generally squared base portion of the bottle neck (1) engages the similarly shaped base portion (6) of the cap (5). While the base portion (6) of the cap (5) matingly engages the similarly shaped base portion of the bottle neck (1), Applicants respectfully submit that the base portion of the bottle neck (1) is not a cam, as recited by independent Claim 1.

A cam is generally understood as including a “rotating or sliding piece that imparts motion to a roller moving against its edge or to a pin free to move in a groove on its face or that receives motion from such a roller or pin.” “Cam.” Webster’s Ninth New Collegiate Dictionary. Merriam-Webster Inc., 1986. (Copy attached) Because the base portion (6) of the cap (5) matingly engages the base portion of the bottle neck (1) and upon rotation of the cap (5) relative to the bottle neck (1), is fixed relative to the base portion of the bottle neck (1), Applicants submit that the base portion of the bottle neck (1) is not a cam, as there is no movement between the base portion (6) of the cap (5) and the base portion of the bottle neck (1). Rather, the base portion of the bottle neck (1) engages the base portion (6) of the cap (5) to *prevent* the base portion (6) of the cap (5) from moving relative to a top portion of the cap (5) to allow the base portion (6) to be

severed from the top portion of the cap (5) when the cap (5) is rotated relative to the bottle neck (1).

In light of the foregoing, Applicants respectfully submit that independent Claim 1, as well as Claims 2, 3, and 5-10, dependent therefrom, are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice (U.S. Pat. No. 2,113,176), as applied above to Claim 9, and further in view of Schumacher (U.S. Pub. No. 2003/0127420).

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice (U.S. Pat. No. 2,113,176), as applied above to Claim 9, and further in view of Hicks (U.S. Pat. No. 807,381).

These rejections are respectfully traversed.

Independent Claim 1 is believed to be in condition for allowance in light of the foregoing remarks. Because Claim 10 depends from Claim 1, Claim 10 is likewise believed to be in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

NEW CLAIMS

New Claims 11-20 are added for consideration. Of new Claims 11-20, Claim 12 is an independent claim.

Independent Claim 12 recites a capping system including a container having an opening and a cam extending from a surface of the container. A cap includes a bottom for selectively covering the mouth, a jacket extends from the bottom, and a guarantee connected to the jacket. The guarantee includes a flanged region that laterally surrounds the cam when the cap is attached to the container. The guarantee rotates with the jacket with the cap is rotated relative to the container, whereby the cam applies a force on the guarantee when the cap is rotated a predetermined distance relative to the container to at least partially sever the guarantee.

Applicants respectfully submit that the cited art of record fails to teach or suggest a capping system including a cap having a guarantee that rotates with a jacket of the cap when the cap is rotated relative to a container in combination with a cam that extends from a surface of the container and applies a force on the guarantee when the cap is rotated a predetermined distance relative to the container to at least partially sever the guarantee. Accordingly, Applicants respectfully submit that independent Claim 12, as well as Claims 13-20, dependent therefrom, are in condition for allowance.

Independent Claim 1 is believed to be in condition for allowance in light of the foregoing remarks. Because Claim 11 depends from independent Claim 1, Claim 11 is similarly believed to be in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is

believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 19, 2009

By: /Matthew H. Szalach/
Stephen T. Olson, Reg. 36,626
Matthew H. Szalach, Reg. 53,665

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

STO:MHS:ca

14271629.1